

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE: BAIR HUGGER FORCED AIR MDL No.: 15-md-02666 (JNE/FLN)
WARMING PRODUCT LIABILITY
LITIGATION

This Document Relates To:

WILLIAM KEY,

Civil Action No.: 17-CV-02581-JNE-FLN

Plaintiff,

**DECLARATION OF DONALD C. GREEN II IN SUPPORT OF
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Donald C. Green II, declare as follows:

1. I am an attorney at Kennedy Hodges, LLP and Counsel for Plaintiff William Key in the above-captioned matter.
2. I submit this affidavit in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 [Dkt. 1124] filed on March 1, 2018.
3. Mr. Key contacted Kennedy Hodges, LLP in July of 2015 regarding injuries that were allegedly caused by the Bair Hugger patient warming device.
4. Medical records and billing records pertaining to Mr. Key's treatment were obtained by Kennedy Hodges through its third party medical records retrieval company. Those records indicated that a Bair Hugger device was used during his initial orthopedic surgery.

5. This case was filed on July 6, 2017 to comply with the statute of limitations deadline.
6. Phone calls were placed and letters were sent to Mr. Key by staff at Kennedy Hodges in an attempt to reach him and obtain information to complete the Plaintiff Fact Sheet. These communication attempts were made between July 2017 and October 2017.
7. On November 8, 2017, Mr. Key spoke with a staff member at Kennedy Hodges to inform them that he had recently had a close family member who passed away and would be leaving the country for several weeks.
8. On January 8, 2018, Mr. Key reported that he had sent a completed Plaintiff Fact Sheet to Kennedy Hodges via United States Postal Service mail service about two weeks prior.
9. Based on information and belief, this Plaintiff Fact Sheet was lost in the mail.
10. After further correspondence with counsel and staff at Kennedy Hodges, it is apparent that Mr. Key travels extensively and is away from his home for extended periods of time.
11. For the above reasons, Kennedy Hodges has not obtained the information necessary to complete and submit the Plaintiff Fact Sheet.
12. As we have been unable to obtain the additional information necessary to complete the Plaintiff Fact Sheet for this claim, we have not been able to cure the alleged deficiencies pertaining to the Plaintiff Fact Sheet that has been submitted for this case.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing
is true and correct.

March 8, 2018

/s/ Donald C. Green II
Donald C. Green II